

REMARKS

The following is in response to the Office Action mailed December 27, 2004. The Examiner has objected to the drawings because of the subject matter shown in claim 59. Applicant has canceled claim 59.

Claims 1-14, 16-46 & 48-71 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as invention.

In regard to claims 1-14, 16-46, & 48-71, although one of ordinary skill at the time of the invention would know how to accomplish each of the individual recited actions/functions from the language of these claims, since, there is no clear and definite interconnection between one or more of the recited limitations of these claims, one of ordinary skill could not determine from the language of these claims whether or not they are in fact making and/or using the claimed invention. In this regard it is noted that from the language of these claims it is vague, indefinite and unclear:

A) in regard to claim 1, why, when and under what circumstance the "operating speed" would be adjusted, since as claimed the actual/current operating speed of the manufacturing facility has not either:

(1) been determined; or

(2) been compared to the "determined desired operating speed";

so as to indicate to one of ordinary skill, either:

(1) how much the actual operating would need to be adjusted; and

(2) whether the actual operating speed would be either increased or decreased while being adjusted to an unknown value.

Claim 1 has been amended to provide the information requested by the Examiner.

B) in regards to claims 2, 21, 34, 60 & 61, why, when, under what circumstances and by how much the “current operating speed” would be adjusted in response to the comparison, since as claimed the actual/current operating speed of the manufacturing facility is to be adjusted, but the claim fails to indicate to what end the current operating speed is to be adjusted so as to indicate to one of ordinary skill, either:

(1) to what end the current operating speed is to be adjusted, for example to match the desired operating speed or to some other value; or
(2) by how much the actual operating would need to be adjusted;

or

(3) whether the actual operating speed would be either increased or decreased while being adjusted to an unknown value.

Claim 2 has been cancelled. Regarding claims 21, 34, 60 and 61, the claims teach that the current operating speed is adjusted in response to what is found as the desired operating speed. It does not limit the claim as to matching the desired operating speed. Further the operating speed could be adjusted up or down based on the desired operating speed. As stated previously, in the prior art the machine was run as fast as possible, without any determinations of what the desired operating speed would be as compared to the operating speed, and no changes were made on the machine, only to run as fast as possible.

C) in regards to:

- (1) claims 3, 6-11, 22-29, 35-46, 48, 62, 63, 65-67, 70 & 71 and how the "cost of manufacturing" may be used as the economic variable;
- (2) claims 3-5, 13, 14, 16, 19, 22-29, 35-46, 48, 62, 63, 67 & 71 and how either the "manufacturing inflows" or the "manufacturing outflows" may be used; or
- (3) claims 9-10, 41, 42 & 44 and how "one or more breaks in production" may be used; or
- (4) claim 12 and how the "price of manufacturing inflows" may be used; or
- (5) claim 13, 14, 16, 19, 27 & 45, how the sales information may be used; or
- (6) claims 19 & 32 and the "purchase of inflows", "capital additions" or "capital subtractions" or "changes in equipment" may be used;

since as claimed these values have not been entered or determined.

The method claims have been amended accordingly.

Regarding the apparatus claims, the claims teach that based on an economic variable, the desired speed is determined, which is then used to adjust the current operating speed. As stated previously, in the prior art the machine was run as fast as possible, without any determinations of what the desired operating speed would be as compared to the operating speed, and no changes were made on the machine, only to run as fast as possible.

D) in regard to claims 17, 30 & 49 and which if the inputted “business transaction” are used in the function/action of “computing the economic efficiency of the facility with the proposed transaction leaving the remaining variables constant”, since as recited in the function/action of “inputting information on the business transactions that affects the economic variables”, there are a number of entered “business transactions”.

E) in regard to claims 22-29 how the “optimal operating speed” may be either determined or achieved, since as claimed this the criteria for determining what would be considered as being the “optimal operating speed” has not been set forth or determined.

As stated above, in the prior art, the machines were run as fast as possible, without any regard to any economic variables. The present invention uses economic variables to determine a desired operating speed and then to adjust the current operating speed of the facility based on this.

F) in regard to claims 33-46, 48 & 56, how the received “economic input” that “varies depending on the operating speed” and the determined “desired speed” that is “dependent on the economic input” is converted into the “optimal speed” that is outputted to the computer of “manufacturing facility”.

In regard to claims 22-29, since claim 21 contains 2 (TWO) means for determining and each of claims 22-29 adds at least one additional means for determining, each of applicant’s references to “the means for determining” in claims 22-

29 in vague, indefinite and unclear as to which of the previously mentioned "means for determining" in claims 22-29 is being referred by to these phrases in claims 22-29.

Applicant has amended the claims accordingly.

In regard to claims 36-46 & 48, since claim 35 contains 2 (TWO) means for determining and each of claims 36-46 & 48 adds at least one additional means for determining, each of applicant's references to "the means for determining" in claims 36-46 & 48 is vague, indefinite and unclear as to which of the previously mentioned "means for determining" in claims 36-46 & 48 is being referred by to by these phrases in claims 22-29.

Applicant has amended the claims accordingly.

Claims not specifically mentioned above, inherit the defects of the base claim through dependency. For the above reason(s), applicant has failed to particularly point out what is regarded as the invention.

35 U.S.C. § 101 reads as follows"

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to conditions and requirements of this title".

Claims 17-20, 30-46, 48-51, 53 & 55-57 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter.

Applicant believes that based on the amendments to the claims, that this rejection has been overcome.

The Examiner has rejected claims 1-14, 16-46, 48-56 and 58-71 under 35 USC 101.

Applicant believes that based on the amendments to the claims, that this rejection has been overcome.

The examiner has rejected claims 1-14, 16-46 and 48-71 under 35 USC 101. Applicant believes that based on the amendments to the claims, that the rejection has been overcome.

The Examiner has rejected claims 1-14, 16-46, and 48-71 as being unpatentable over Hart et al (3,490,689) in view of obvious business considerations as evidence by Meng (4,442,710) and Key et al (Reference U on PTO-892).

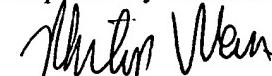
Based on an interview with the Examiner on March 10, 2005, an Agreement was reached with regard to this rejection.

Applicant believes that the application is now in condition for allowance.

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Respectfully submitted,



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